IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO. 2491 OF 2002

1. Crest Communications Limited & anr. Petitioners

vs.

1. Union of India & ors. Respondents

Mr.V.S. Nankani with Mr.Madhur Baya i/b.
Mr.M.M.Merchant for the petitioners.

Mr.H.V.Mehta with Mr.R.C.Master i/b. Mr.T.C.Kaushik for the respondents.

**CORAM : R. M. LODHA &**
**J.P. DEVADHAR,JJ**.

**DATED : 19th October 2004**

**P.C.**

During the course of motion hearing, Mr.V.S.Nankani, the learned counsel for the petitioners submitted that the petitioners were not desirous of challenging the circular no.53 of 2002 dated 20th August 2002. He would submit that the petitioners shall make an appropriate application to the Settlement Commission for disposal of settlement proceedings.

2. Mr.H.V.Mehta, the learned counsel for the revenue, however, submits that the respondent no.1 is entitled to encash the Bank Guarantee dated 10th January 2002 furnished by the petitioners for recovery of outstanding duty and interest thereon from the petitioners.

3. Having considered the submissions of the learned counsel for the petitioners, we are satisfied that writ petition does not deserve to be admitted and the following order shall meet the ends of justice:

(i) The bank guarantee dated 10th January 2002 given by the respondent no.6 at the instance of petitioners to respondent no.1 shall be kept alive for a period of three months from today. If within this time, the petitioners fail to obtain appropriate order of restraint from the Customs and Central Excise Settlement Commission prohibiting the encashment of bank guarantee, the respondent no.1 shall be free to encash the bank guarantee dated 10th January 2002 for recovery of outstanding duty and interest from the petitioners.

(ii) On the other hand, if within three months from today the Customs and Central Excise Settlement Commission passes any interim order concerning the bank guarantee dated 10th January 2002, the parties shall abide such order until disposal of settlement proceedings by the Customs and

Central Excise Settlement Commission.

(iii) All contentions of the parties are kept open to be agitated before the Customs and Central Excise Settlement Commission.

4. Writ petition is dismissed with aforesaid direction.

**(R.M. LODHA,J.)**

**(J.P. DEVADHAR,J.)**